IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.MC.No. 1470 of 2007()

C.M.P.NO.681 OF 2007 OF J.F.C.M-II, SULTHANBATHERY
O.R.NO.2/2007 OF CHEDALATH RANGE

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PETITIONER:

CHACKO, S/O.CHERIYAN,
THARAPPEL HOUSE, PANAMARAM,
WAYANAD DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
FOREST RANGE OFFICER, CHETHLATH RANGE,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1470 of 2007

Dated this the 1st day of June, 2007

ORDER

Petitioner's vehicle has been seized on the allegations that it is involved in the commission of a forest offence. The petitioner applied for release of the vehicle. The learned Magistrate by the impugned order rejected the said prayer holding that proceedings under Section 61 (A) of the Kerala Forest Act have been initiated.

2. The learned Public Prosecutor on instructions submits that notice under Section 61(A) of the Kerala Forest Act has already been issued and proceedings thereunder have been commenced. The learned Public Prosecutor in these circumstances submits that the petitioner must approach the authority under Section 61(A) of the Kerala Forest Act and claim interim release of the vehicle in accordance with law. However, the learned Public Prosecutor submits that the State has no objection if appropriate conditions are imposed and the vehicle is released on bank guarantee to the petitioner.

3. The learned counsel for the petitioner on the other hand submits that absolutely no steps have been taken under Section 61(A) of the Kerala Forest Act so far and it is incorrect to contend that proceedings under Section 61 (A) of the Kerala Forest Act are

pending. The learned Public Prosecutor was directed to take instructions and report specifically to this Court whether any proceedings under Section 61 (A) of the Kerala Forest Act have been issued or not. The case diary has been shown to me. The report dated 15.03.2007 of the Forest Range Officer has been shown. It cannot be assumed therefrom that proceedings under Section 61(A) of the Kerala Forest Act have commenced. When proceedings under Section 61(A) of the Kerala Forest Act have not commenced, the release of the vehicle cannot be objected to on the ground that such proceedings are pending.

4. I am, in these circumstances, satisfied that appropriate directions for release of the vehicle can be issued subject, of course, to appropriate conditions, which shall ensure the interests of the State in proceedings under Section 61(A) of the Kerala Forest Act.

5. In the result, this Crl.M.C is, allowed. The vehicle shall be released to the petitioner on the following terms and conditions.

i) He shall produce before the learned Magistrate all documents to show that he is the owner entitled to possession of the vehicle;

ii) He shall execute a bond equal to the value of the vehicle with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. The learned Magistrate must ensure scrupulously that the sureties are sufficient and solvent;

iii) The petitioner shall keep the vehicle in proper condition and shall comply with the direction, if any, issued finally under Section 61(A) of the Kerala Forest Act by the authority to produce the vehicle before such authority. In the bond, he shall specifically undertake to abide by the said condition.

(R.BASANT, JUDGE)

rtr/-